

REMARKS

The application has been reviewed in light of the Final Office Action dated October 29, 2004. Claims 1-7, 9 and 10 are pending in this application with claims 1, 9 and 10 in independent form. Applicant has amended claims 1, 7, 9 and 10 to correct minor formal matters not effecting the scope of the claims. It is submitted that no new matter has been added and no new issues have been raised by the present Amendment.

Claims 1-7 were rejected under 35 U.S.C. § 101 as allegedly failing to fall within the statutory classes of invention as set forth in 35 U.S.C. § 101.

In particular, the Office Action alleges that the method of claim 1 is not one of the classes of invention set forth in § 101. The Office Action further alleges that the method of claim 1 is an abstract idea and that it does not reduce to a practical application in the technological arts and therefore is non-statutory. Applicant respectfully disagrees.

35 U.S.C. 101 provides, “[W]hoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.” See M.P.E.P. § 2104(IV)(A). A claim that requires one or more acts to be performed defines a process claim. See M.P.E.P. § 2104(IV)(B)(2)(b). A computer related process is statutory when it either: (A) results in a physical transformation outside of the computer for which a practical application in the technological arts is either disclosed in the specification or would have been known to a skilled artisan, or (B) is limited to a practical application within the technological arts. See id. A claim is limited to a practical application when the method as

claimed, produces a concrete, tangible and useful result. See § 2104(IV)(B)(2)(b)(ii).

Applicant respectfully submits that the present claims 1-7 provide a useful, tangible and concrete result. That result is “the determined value of the key performance indicator,” which is displayed via the contextual visualization interface.

Accordingly, it is respectfully submitted that claim 1, recites patentable subject matter under 35 U.S.C. Section 101. Claims 2-7 depend from independent claim 1 and it is respectfully submitted that claims 2-7 recite patentable subject matter. Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. Section 101.

Claims 1-7, 9 and 10 were rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office Action contends that the preamble of claim 1 calls for “a method of reporting a key performance indicator,” with the first step being “identifying a KPI.” The Office Action further contends that the scope of the claim can be achieved with the first step of identifying the KPI and then reporting the same KPI. The Office Action contends that the purpose of the remaining steps “(b)-(e)” to the preamble is unclear. The Office Action states that it appears that the scope of the claim is more than just reporting a KPI, but also analyzing and displaying business value of some business event.

It is respectfully submitted that the claims as they presently stand are clear and definite. It is the Applicant who is to define the scope of the claims. It is believed that each of the pending claims would allow a person of ordinary skill in the art to determine whether a device

is or is not within the literal scope of the claims, which is all that the Patent Statutes require.

Claims 9 and 10 were rejected under 25 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent Publication No. 2001/0032092 to Calver. Applicant has carefully considered the Examiner's comments and the cited art, and respectfully submits that independent claims 9 and 10 are patentable over the cited art for at least the following reasons.

Independent claim 9 relates to a system for reporting a key performance indicator. The system includes a workflow manager operative to receive a selection of a key performance indicator, identify a business event affecting a value of the key performance indicator, receive a business event message indicating the occurrence of the business event, the business event message including business data describing the business event, determine the value of the key performance indicator based on the business data and output the determined value of the key performance indicator. The system also includes a contextual visualization in connection with the workflow manager operative to display the value of the key performance indicator.

Calver, as understood by Applicant, relates to methods and systems that utilize remote computer networks to interact with and assist potential electronic commerce users and customers. See Calver, page 1, paragraph 0002. Calver describes a small business web-based portal that provides a user-friendly environment in which marketing, lead generation and products and services are provided to small business owners. Calver provides products and solutions that enable small business owners to grow their business and reduce costs and to assist with small business needs. In addition, Calver provides educational and transactional information and interactive and marketing tools for small business owners. See Calver, page

4, paragraph 0053-0054.

The system and method of Calver provide a single point of contact for information about multiple lines of products, a basic product configurer to help customers identify products that meet their needs and the ability to capture and distribute lead information. See Calver page 4, paragraph 0055.

However, as understood by Applicant, Calver, provides no teaching or suggestion whatsoever of a key performance indicator, much less receiving a selection of a key performance indicator, identifying a business event affecting a value of the key performance indicator, receiving a business event message indicating the occurrence of the business event, the business event message including business data describing the business event, determining the value of the key performance indicator based on the business data and outputting the determined value of the key performance indicator, as recited in claim 9 of the present application, for example.

Accordingly, it is respectfully submitted that claim 9, is patentable over Calver, for at least the reasons mentioned above. It is respectfully submitted that claim 10 is patentable over Calver for at least similar reasons.

In light of the remarks and amendments made herein, it is respectfully submitted that claims 1-7, 9 and 10 are patentable over the cited art.

The Office is hereby authorized to charge any additional fees that may be required in connection with this Amendment and to credit any overpayment to our Deposit Account No. 03-3125.

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A petition for a one month extension of time and a check for the \$120.00 extension fee is submitted herewith. If a petition for a further extension of time is required to make this response timely, this paper should be considered to be such a petition, and the Commissioner is authorized to charge the requisite fees to our Deposit Account No. 03-3125.

If a telephone interview could advance the prosecution of this application, the Examiner is respectfully requested to call the undersigned attorney.

Entry of this Amendment and allowance of this application are respectfully requested.

Respectfully submitted,



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